

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3699 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
1 to 5 No.

AYUBKHAN MOHAMMEDKHAN BALUCHI

Versus

DISTRICT MAGISTRATE

Appearance:

MR ADIL MEHTA for Petitioner

MR HL JANI ,AGP, for Respondents Nos. 1,2 and 4.

MR BT RAO,Addl standing counsel for Respondent No. 3

CORAM : MR.JUSTICE K.R.VYAS

Date of decision: 30/07/98

ORAL JUDGEMENT

The petitioner, who is detained by an order of detention dated 31-3-98, by way of this petition under Article 226 of the Constitution of India has challenged the said order of his detention passed by the District Magistrate, Narmada (Rajpipla) .

Since this petition is required to be allowed on the first contention raised by Mr. Adil; Mehta for the petitioner that the petitioner has not been supplied with the legible documents alongwith the order of detention and the grounds of detention , the right of the petitioner to make an effective representation against his detention has been infringed , it is not necessary for me to refer to and deal with the other contentions raised by Mr. Mehta and to re-narrate the allegations made in the grounds of detention.

Mr. Mehta, learned Advocate for the petitioner has invited my attention to the compilation of documents supplied to the petitioner alongwith the grounds of detention and more particularly to pages 39, 45 and 47 thereof and submitted that the said pages are not legible. Having perused the said pages, except page No.29, one can read the contents of the other pages with difficulty. However, page 29 appears to be a notification dated 6-10-97 issued by the State Government wherein certain letters are totally illegible. Mr. Jani, learned Assistant Government Pleader appearing for the respondents Nos.1 ,2 and 4 submitted that these documents are not vital and, therefore, the petitioner is not entitled to make a grievance about the same. The detaining authority is cast with an obligation and duty to supply all the documents in their legible form irrespective of whether they are relevant or not. It may be that a particular document which the detaining authority may be considering irrelevant, the same may be relevant for the detenu in making an effective representative against his detention . Perusing the documents, as stated above, the document at page 29 supplied to the petitioner is illegible which deprived the petitioner of his right to make an effective representation guaranteed under Article 22 (5) of the Constitution of India.

In the result the petition is allowed. The order dated 31-3-98 passed is quashed and set aside. The detenu Ayubkhan Mohammadkhan Baluchi is ordered to be released forthwith if not required in connection with any other offence. Rule is made absolute accordingly with no order as to costs.

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